

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JEFFREY T. MCCONNELL §
VS. § CIVIL ACTION NO. 1:04cv674
UNITED STATES OF AMERICA §

MEMORANDUM OPINION

Movant Jeffrey T. McConnell, formerly an inmate confined at the Federal Correctional Institution in Beaumont, Texas, proceeding *pro se*, brings this motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

Discussion

On November 21, 2005, movant was ordered to file an amended pleading that contains a more detailed factual discussion explaining the ground for his motion to vacate. On December 8, 2005, the copy of the order sent to movant was returned to the court indicating that movant had been released. Movant has failed to provide the court with a current address at which he may receive his mail.

Fed. R. Civ. P. 41(b) authorizes the district court to dismiss an action for want of prosecution *sua sponte* whenever necessary to achieve the orderly and expeditious disposition of cases. *Anthony v. Marion County General Hospital*, 617 F.2d 1164, 1167 (5th Cir. 1980); quoting *Link v. Wabash*, 370 U.S. 626 (1962). See also *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). The exercise

of the power to dismiss for failure to prosecute is committed to the sound discretion of the Court and appellate review is confined solely in whether the Court's discretion was abused. *Green v. Forney Engineering Co.*, 589 F.2d 243 (5th Cir. 1979); *Lopez v. Aransas County Independent School District*, 570 F.2d 541 (5th Cir. 1978).

By failing to provide the court with a current address, movant has prohibited the court from communicating with him. Therefore, movant has failed to diligently prosecute this action. Accordingly, this action should be dismissed for want of prosecution pursuant to Fed. R. Civ. P. 41(b). It is therefore

ORDERED that the above-styled action is **DISMISSED** without prejudice. Movant may reinstate this action within thirty (30) days by filing a change of address and notifying the court he wishes to prosecute the action. A final judgment will be entered in this action in accordance with this opinion.

SIGNED this the 9th day of December, 2005.



RICHARD A. SCELL
UNITED STATES DISTRICT JUDGE